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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,985	03/26/2004	Alan G. Dry	04597 (3883.00041)	9662

35374 7590 03/29/2007
LEAR CORPORATION, BLISS MCGLYNN, P.C.
2075 WEST BIG BEAVER ROAD
SUITE 600
TROY, MI 48084

EXAMINER

SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/810,985

Applicant(s)

DRY ET AL.

Examiner

James N. Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 10-14 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/6/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 9, 15 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canner US 1,346,174 in view of Mitchell US 3,670,918.

Canner '174 teaches a bin (1) for storing beverage containers with a hinged lid (2) for opening and closing the bin, and a plurality of shelves (18) movable to positions spaced from the bottom of the bin.

The reference fails to teach a seal connected to the underside of the lid. However, Examiner notes the containers taught therein are for delivery and thus inherently contain closures on the bottle which seal the container contents.

Mitchell '918 teaches a cover with a space (44), teaching the space "serves as a means for holding the cap 34 in an assembled relation with the body 33." Thus the space, being part of the cover and thus operatively connected to the cover, holds the seal in place and thus places the seal in contact with the lid. Furthermore, by holding the seal to the container, the cover inherently applies a force to the seal and thus to the container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bin cover of Canner '174, providing the impression taught by Mitchell '918, motivated by the benefit of providing a means to holding the cap of the bottles contained therein in an assembled relation with the body. Furthermore, Examiner notes the references are analogous because both are drawn to broader containers which are design to transport smaller containers with special contents therein, and are both drawn to maintaining the integrity of the containers while they are in transit.

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Regarding claim 9, with the above modification, Examiner notes the cap/seal already disposed on the bottle within the bin of Canner '174 is in contact with the lid when the lid is in the closed position and not in contact with the lid when the lid is in the open position, and thus the seal is read to be "removably mounted" to the underside of the lid.

Regarding claim 15, Examiner notes the trays are already fixed within the container, and thus the lid merely closes the container and thus "stores" the trays when the trays are not supporting a beverage container.

3. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canner US 1,346,174 in view of Mitchell US 3,670,918 as applied to claim 1 above, and further in view of Yu US 6,279,744.

Canner '174 fails to teach the bin defining a ledge adapted to support a tray, instead disclosing a plurality of shelves which are pivotable into their in-use position. The shelves are taught for use in dividing and arranging the receptacle into compartments or subdivisions (Specification page 1, column 1, lines 48+).

Yu '744 teaches a tool kit, with a plurality of ledges (12) serving to receive movable trays (20) at various heights which serve to divide the receptacle. The ledge structure and snap-in trays of Yu '744 allow a greater number of positions at which to set the trays. This would be desirable for the bin of Canner '174, which has to provide a unique tray/shelf for each desired shelf height.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bin of Canner '174, providing the ledges and dividers/trays taught by Yu '744, motivated by the benefit of offering an increased number of vertical positions at which to set the height of the shelves.

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Allowable Subject Matter

4. Claims 10-14 and 16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on Monday - Friday 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jns


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